**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Mark W. Minné

Examiner: Michael V. Datskovskiy

Serial No.: 10/051,571

Group Art Unit: 2835

Filed: January 17, 2002

Docket No.: 10003994-1

Title: MEMORY CARD ACCESS INDICATOR SYSTEM

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 223 3-1450

DECLARATION UNDER 37 C.F.R. § 1.131

Sir/Madam:

I, Mark W. Minné, declare as follows:

1. I am the named inventor of the subject matter described and claimed in the above-identified U.S. Patent Application Serial No. 10/051,571 filed January 17, 2002.

2. The Office Action mailed on June 11, 2003 has been read and understood along with the references cited therein, and that I make this Declaration in support of the patentability of the claims of U.S. Patent Application Serial No. 10/051,571.

3. I, Mark W. Minné, am a Supply Chain Engineer at Hewlett-Packard Company. I began my employment at Hewlett-Packard Company on or about August 15, 1977.

4. This Declaration under 37 C.F.R. § 1.131 is made in response to the rejection of claims 1-3, 6, 8-11, 13-15, 16-20 and 22 under "35 U.S.C. § 102(e)" based on Japanese Patent No. JP02001266098A to Nishizawa et al., entitled "IC Card and Mobile Terminal Device", having a publication date of September 28, 2001. The Nishizawa Patent is assigned to Hitachi Ltd., Hitachi VLSI Systems Co. Ltd.. For purposes of the June 11, 2003 Office Action, the earliest date that Japanese Patent JP02001266098A is available for use as prior art is its publication date of September 28, 2001.

5. Prior to September 28, 2001 publication date of Japanese Patent JP02001266098A, to Nishizawa et al., cited by the Examiner as referenced above, I conceived the above-identified and claimed invention. The claimed invention was

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constructively reduced to practice via the filing of U.S. Patent Application Serial No. 10/051,571. As factual evidence of my conception prior to September 28, 2001, attached hereto and incorporated by reference herein, is Exhibit A.

6. Exhibit A is a confidential internal Invention Disclosure record of Hewlett-Packard Company. This Invention Disclosure document is entitled "Memory Card Access Indicator System" and has an internal Hewlett-Packard invention disclosure number of PDNO. 10003994, and was produced prior to the earliest prior art date of September 28, 2001 of the Japanese Patent No. 6,196,670 JP02001266098A to Nishizawa et al. This document describes the subject matter of the present patent application and supports that the claimed invention of the present patent application was conceived prior to September 28, 2001.

7. After conceiving the claimed invention of the present application, I diligently filed U.S. Patent Application Serial No. 10/051,571 as described in Paragraphs 8-13 below.

8. Invention Disclosure Record 10003994 was forwarded to the law firm of Dicke, Billig, & Czaja, P.L.L.C. requesting preparation of a U.S. Patent Application based upon Invention Record 10003994. Dicke, Billig, & Czaja, P.L.L.C. is now located at Fifth Street Towers, 100 South Fifth Street, Suite 2250, Minneapolis, MN 55402 and specializes in patent, trademark, and copyright law.

9. Thereafter, Steven E. Dicke, registration number 38,431, of Dicke, Billig, & Czaja, with the assistance of Gregg Kromrety, a law clerk with Dicke, Billig & Czaja, began preparation of a U.S. Patent Application based upon Invention Record 10003994. Such application is the present invention of U.S. Patent Application Serial No. 10/051,571. As factual evidence of commencement of preparation of U.S. Patent Application Serial No. 10/051,571, attached hereto and incorporated by reference herein, is Exhibit B.

10. Exhibit B is a facsimile transmission to Kevin Anderson of Anderson Illustrating located at 19917 English Court, Farmington, Minnesota 53024. Anderson Illustrating specializes in patent illustrations and was employed to prepare necessary figures

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for U.S. Patent Application Serial No. 10/051,571. Exhibit B includes a "Fax Transmittal Cover Sheet" dated June 1, 2001 and preliminary Figures 1A, 1B, 2A, 2B, 3A, 3B, 3C, and 4 for U.S. Patent Application Serial No. 10/051,571.

11. A draft of the present application, based on Invention Record 10003994, was prepared and forwarded to Mark Minnet via an e-mail transmission on October 30, 2001. As factual evidence of said e-mail transmission, attached hereto and incorporated by reference herein, is Exhibit C, which is a "hard copy" of a portion of the said e-mail transmission to Mark Minnet dated October 30, 2001.

12. A revised draft application of the present invention incorporating Mark Minnet's comments was prepared by Steven E. Dicke and forwarded via an e-mail transmission on November 6, 2001, to Steve Ormiston, an outsourcing attorney working for Hewlett-Packard Company, located in Boise, Idaho. As factual evidence of said e-mail transmission, attached hereto and incorporated by reference herein, is Exhibit D, which is a "hard copy" of a portion of the said e-mail transmission to Steve Ormiston dated November 6, 2001.

13. The revised draft application was reviewed by personnel of Hewlett-Packard Company. On January 17, 2002, the present application, U.S. Patent Application Serial No. 10/051,571, was timely filed with the U.S. Patent and Trademark Office (U.S.P.T.O.).

14. It is therefore respectfully submitted that the present application claims an invention which was conceived prior to September 28, 2001 and diligently filed with the U.S.P.T.O. Thus, the Nishizawa et al. reference should be removed as a reference under 35 "U.S.C. § 102(e)."

15. I further declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title

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18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or patent issued thereon.


Mark W. Minné

OCTOBER 14, 2003
Date